

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2020 Legislative Session

Bill No. CB-36-2020

Chapter No. 31

Proposed and Presented by The Council Chair (by request – County Executive

Introduced by Council Members Turner, Streeter, Davis, Anderson-Walker, Hawkins,
Dernoga, Glaros, Taveras, Harrison and Ivey

Date of Introduction June 23, 2020

BILL

1 AN ACT concerning

2 Administrative Hearings

3 For the purpose of modifying the provisions for administrative hearings by authorizing the
4 adjudication of matters involving violations of the Building Code, Housing Code and violations
5 of the laws concerning rental licenses and by authorizing the Department of Permitting,
6 Inspections and Enforcement to abate violations that have been duly adjudicated through the
7 administrative hearing process and to assess the costs of abatement to responsible parties.

8 BY repealing and reenacting with amendments:

9 SUBTITLE 2. ADMINISTRATION.

10 DIVISION 4 – BOARD OF APPEALS.

11 Section 2-117

12 The Prince George’s County Code

13 (2019 Edition).

14 BY repealing and reenacting with amendments:

15 SUBTITLE 4. BUILDING.

16 DIVISION 1 – BUILDING CODE

17 Sections 4-119 and 4-240,

18 The Prince George’s County Code

19 (2019 Edition).

20 BY repealing and reenacting with amendments:

21 SUBTITLE 13. HOUSING AND PROPERTY STANDARDS.

1 Sections 13-116, 13-187, 13-245, 13-246.01, 13-270,
2 13-1121, 13-1123, 13-1124, 13-1125, 13-1126, 13-
3 1127, 13-1128, 13-1129, 13-1130, 13-1131, 13-1132,
4 13-1133, 13-1134, 13-1135, 13-1136, 13-1137, 13-
5 1138, 13-1139, 13-1141, 13-1143, 13-1145, 13-1148,
6 13-1149, 13-1150, 13-1151, 13-1152, 13-1153, 13-
7 1154, and 13-1155,
8 The Prince George’s County Code
9 (2019 Edition).

10 BY repealing:

11 **SUBTITLE 13. HOUSING AND PROPERTY STANDARDS.**
12 Sections 13-1156, 13-1157, 13-1158, 13-1159, 13-
13 1160, 13-1161, 13-1162, 13-1163, and 13-1164
14 The Prince George’s County Code
15 (2019 Edition)

16 **SECTION 1. BE IT ENACTED** by the County Council of Prince George's County,
17 Maryland, that Section 2-117 of the Prince George's County Code be and the same is hereby
18 repealed and reenacted with the following amendments:

19 **SUBTITLE 2. ADMINISTRATION**
20 **DIVISION 4. BOARD OF APPEALS**

21 **Sec. 2-117. Board of Administrative Appeals.**

22 (a) There is created a Board of Administrative Appeals for the County, to hear and
23 determine all administrative appeals allowed by ordinance or law. The jurisdiction of the Board
24 of Administrative Appeals shall not extend to any provision of the County Code which does not
25 expressly provide for such jurisdiction.

26 (b) County law which specifically grants the Board authority to hear appeals includes (but
27 need not be limited to) the following:

- 28 **SUBTITLE 3. ANIMALS.**
29 Division 2. Licenses and Standards (Animal Holding Facility Licenses).
- 30 **SUBTITLE 4. BUILDING.**
31 [Division 1. Building Code.]

1 Division 2. Construction or Changes in Floodplain Area.

2 Division 3. Grading, Drainage and Erosion Control.

3 Division 4. Stormwater Management.

4 * * * * *
5 SUBTITLE 14. MORALS AND CONDUCT.

6 Division 2A. Going out of Business Sales.

7 [Division 3. Antilitter and Weed Ordinance.]

8 * * * * *

9 SECTION 2. BE IT FURTHER ENACTED by the County Council of Prince George's
10 County, Maryland, that Sections 4-119 and 4-240 of the Prince George's County Code be and the
11 same are hereby repealed and reenacted with the following amendments:

12 **SUBTITLE 4. BUILDING**

13 **DIVISION 1. BUILDING CODE**

14 **SUBDIVISION 2. AMENDMENTS TO THE INTERNATIONAL BUILDING CODE**

15 * * * * *

16 **Sec. 4-119. - Administration; Section 113, Board of Appeals.**

17 [(a) Section 113.1.1, Application for Appeal. The owner or occupant of a building or
18 structure or any directly aggrieved person may appeal to the Board of Administrative
19 Appeals from a final decision of the Director or the Director's designee. An application for
20 appeal may be made when it is claimed that the true intent of the IBC/IRC or of this
21 Subtitle has been incorrectly interpreted or applied. Notice of an appeal shall be in writing
22 and filed within fifteen (15) days after the decision is rendered by the Director or the
23 Director's designee; in the event the Director's written decision is served by mail, the date
24 of decision for the purposes of determining the timeliness of an appeal shall be the
25 postmark date or, if sent by another delivery carrier, the date that the item was delivered
26 into the care of the delivery carrier. Provided, however, that in the case of a structure or
27 dwelling unit which is unsafe or dangerous, or where inadequate sediment control measures
28 exist and sediment is leaving a site, and in any other situation when the Director or the
29 Director's designee has determined that immediate corrective action is necessary, the
30 Director or the Director's designee may, in the Director's or the Director's designee's order,
31 limit the time for an appeal to a shorter period. Should the Director or director's designee

1 limit the time for an appeal in such a manner, the written decision issued by the Director or
2 director's designee shall clearly state the date by which an appeal shall be taken. The Board
3 of Administrative Appeals shall not have the power or duty to hear and decide an appeal
4 regarding the expiration of a permit pursuant to Section 4-352 of the County Code. Appeals
5 hereunder shall be in accordance with Subtitle 2, Division 4, of the County Code.]

6 (a) Section 113.2 is hereby amended to read as follows: Limitations on Authority. An
7 application for appeal shall be based on a claim that the true intent of this code or the rules
8 legally adopted thereunder have been incorrectly interpreted, the provisions of this code do
9 not fully apply or an equally good or better form of construction is proposed. The board
10 shall not have authority to waive requirements of this code and shall not have jurisdiction
11 over matters for which adjudication or appeal is expressly assigned to the procedures
12 outlined in Section 13, Division 15 of this Code.

13 (b) Section [113.2] 113.4 of the IBC is hereby added as follows: Construction in the One
14 Hundred (100) Year Floodplain.

15 * * * * *

16 **SUBTITLE 4. BUILDING**

17 **DIVISION 1. BUILDING CODE**

18 **SUBDIVISION 4. AMENDMENTS TO THE INTERNATIONAL RESIDENTIAL CODE FOR**
19 **ONE- AND TWO-FAMILY DWELLINGS.**

20 **Sec. 4-240. - Amendments to the International Residential Code for One- and Two-Family**
21 **Dwellings.**

22 (a) The following deletions and amendments are made to the International Residential
23 Code for One- and Two-Family Dwellings:

24 (1) Chapters 25-33 of Part VII - Plumbing are hereby deleted and replaced with the
25 Plumbing and Gasfitting Regulations adopted by the Washington Suburban Sanitary
26 Commission (WSSC), known as the WSSC Plumbing Code.

27 (2) Chapters 34 through 43 of Part VIII - Electrical are hereby deleted and replaced
28 with Subtitle 9 of the County Code.

29 (3) Section R112.2 is hereby amended to read as follows: Limitations on Authority.
30 An application for appeal shall be based on a claim that the true intent of this code or the
31 rules legally adopted thereunder have been incorrectly interpreted, the provisions of this

code do not fully apply or an equally good or better form of construction is proposed. The board shall not have authority to waive requirements of this code and shall not have jurisdiction over matters for which adjudication or appeal is expressly assigned to the procedures outlined in Section 13, Division 15 of this Code.

* * * * *

SECTION 3. BE IT FURTHER ENACTED by the County Council of Prince George's County, Maryland, that Sections 13-116, 13-187, 13-245, 13-246.01, 13-270, 13-187, 13-1121, 13-1123, 13-1124, 13-1125, 13-1126, 13-1127, 13-1128, 13-1129, 13-1130, 13-1131, 13-1132, 13-1133, 13-1134, 13-1135, 13-1136, 13-1137, 13-1138, 13-1139, 13-1141, 13-1143, 13-1145, 13-1148, 13-1149, 13-1150, 13-1151, 13-1152, 13-1153, 13-1154, and 13-1155 of the Prince George's County Code be and the same are hereby repealed and reenacted with the following amendments:

SUBTITLE 13. – HOUSING AND PROPERTY STANDARDS.

DIVISION 1. -HOUSING CODE.

SUBDIVISION 2. – AMENDMENTS TO HOUSING CODE.

Sec. 13-116. - Same; Section 111, Means of Appeal.

(a) Section 111.1 is amended to read as follows: " 111.1 Appeals by owner or occupant. Whenever it is claimed that the true intent and meaning of this Code has been misconstrued or wrongly interpreted, the owner or occupant or duly authorized agent may appeal the decision of the Code Official to the [Board of Appeals for Prince George's County] Administrative Hearing Unit as established in Division 15 of this Subtitle. Notice of such appeal shall be in writing and filed within ten (10) calendar days after the decision is rendered by the Code Official. In the case of a structure or dwelling unit which, in the opinion of the Code Official, is unsafe or dangerous, the Code Official may, by order and proper notice, shorten the time for the filing of an appeal. Appeals arising under this Section shall be made using forms provided by the [Board of Appeals] Administrative Hearing Unit and shall be filed with the [Board of Appeals] Administrative Hearing Unit, which will then notify the appellant in writing of the time and place of the hearing."

(b) Section 111.2 is amended to read as follows: " 111.2 Decisions of the [Board of Appeals for Prince George's County] Administrative Hearing Unit. The [Board of Appeals for Prince George's County (hereinafter, the Board of Appeals)] Administrative Hearing Unit shall

1 hold a hearing upon the appeal. The proceedings shall be conducted in accordance with the
2 procedures outlined in Sections 13-1134 through 13-1151 and Section 13-1153 through 13-1154
3 of this Code. The County shall have the initial burden to establish the basis for the determination
4 from which the appeal was taken. The appellant owner or occupant shall have the burden to
5 establish by a preponderance of the evidence that the County or its agencies have misconstrued
6 or wrongly interpreted the intent and meaning of this Code. The [Board of Appeals]
7 Administrative Hearing Unit shall determine only whether there was substantial evidence for the
8 Code Official to take the enforcement action from which the appeal was taken. The [Board of
9 Appeals] Administrative Hearing Unit may not substitute its judgment for that of the Code
10 Official. However, the [Board of Appeals] Administrative Hearing Unit may grant variances of
11 the application of any provision of this Code when the substantial credible evidence clearly
12 establishes that the enforcement thereof would do manifest injustice or would be contrary to the
13 spirit and purpose of the Code. A decision of the [Board of Appeals] Administrative Hearing
14 Unit to vary the application of any provision of this Code or to modify an order of the Code
15 Official shall specify in what manner such variation or modification is made, shall state the
16 conditions upon which it is made, shall make findings of fact in support of the variance, and shall
17 state the supporting reasons for the variance. Every decision of the [Board of Appeals]
18 Administrative Hearing Unit shall be given in writing within thirty (30) days of the hearing [and
19 shall indicate the vote of the members upon the decision. A failure on the part of the Board of
20 Appeals to render a decision within the prescribed time period shall affirm the decision of the
21 Code Official.] A copy of each such decision shall be promptly filed with the Code Official, and
22 the issuing agency shall maintain a file of such decisions which shall be open to the public for
23 inspection during regular business hours. A [certified] copy shall be sent by U.S. first-class mail,
24 sent electronically, or otherwise delivered to the appellant. [The County or] [a] An owner or
25 occupant aggrieved by a decision of the [Board of Appeals] Administrative Hearing Unit may
26 seek reconsideration of the matter in accordance with Section 13-1128 of this Code [appeal the
27 decision to] and all provisions of that Section shall apply to the disposition of the application for
28 reconsideration. The decision of the Hearing Administrator on an application for reconsideration
29 shall constitute the final decision of the Administrative Hearing Unit. Any party who, after
30 having exhausted all administrative remedies available, is aggrieved by a final decision of the
31 Administrative Hearing Unit may seek judicial review of that decision in the Circuit Court for

1 Prince George's County, Maryland, in accordance with [Section 5(U) of Article 25A of the
2 Maryland Annotated Code.] the Maryland Rules. The filing of a petition for judicial review does
3 not stay an order of the Administrative Hearing Unit, unless a stay is granted by the circuit
4 court."

5 * * * * *

6 **SUBTITLE 13. – HOUSING AND PROPERTY STANDARDS.**

7 **DIVISION 4. – RENTAL HOUSING**

8 **Sec. 13-187. - License suspension or revocation; procedure; revalidation and reissuance.**

9 (a) A license once issued or reissued may be suspended or revoked upon a finding by the
10 Director that one (1) or more of the requirements of this Code has been violated, where the
11 violations constitute a serious threat to the health and safety of the occupants, or upon the
12 unreasonable failure of the licensee to comply with a notice of violation.

13 (1) A license may be suspended immediately without hearing upon written notice to
14 the landlord setting forth the grounds for the suspension. The suspension shall terminate and the
15 license shall be revalidated immediately upon correction by the landlord of the violations causing
16 the suspension. The suspension shall expire and the license shall automatically be revalidated in
17 thirty (30) days unless, during that period, the Director initiates action to revoke the license by
18 sending notice of hearing as provided in subparagraph (2), below.

19 (2) No license shall be revoked hereunder without the Director first holding a
20 hearing to consider the action and giving the licensee at least five (5) working days written notice
21 of the time, place, and date of the hearing. The notice shall set forth the grounds for the
22 revocation. Once a license has been revoked, the Director may proceed with appropriate
23 enforcement action as provided.

24 (b) Reissuance of a license that has been revoked, or denied upon application for renewal,
25 shall be subject to payment of the full amount of the applicable license and inspection fee except
26 that, at the discretion of the Director, the license may be reissued on a six (6) month basis. When
27 an inspection confirms that a property on a six (6) month licensing schedule is being maintained
28 to Code standards it shall then be placed on an annual licensing schedule for a period not to
29 exceed three (3) years. The fee for such six (6) month or annual license shall be the same as
30 normally required for a two year license and shall double, progressively, for any subsequent
31 denial or revocation which may occur prior to expiration of the six (6) month or three (3) year

1 annual licensing term. Such a decision of the Director may be appealed to the [Board of
2 Administrative Appeals] Administrative Hearing Unit established by Division 15 of this Subtitle
3 if filed within thirty (30) calendar days.

4 * * * * *

5 (f) The notice of suspension, revocation, or denial of a license shall advise the person
6 notified of his right of appeal of such notice [in accordance with Section 111.1 of the Housing
7 Code]. The Administrative Hearing Unit shall hold a hearing upon the appeal and the
8 proceedings shall be conducted in accordance with the procedures outlined in Sections 13-1134
9 through 13-1151 and Section 13-1153 through 13-1154 of this Code. The Director shall have the
10 initial burden to establish the basis for the determination from which the appeal was taken. The
11 appellant shall have the burden to establish by a preponderance of the evidence that the Director
12 has misconstrued or wrongly interpreted the intent and meaning of this Code. The Administrative
13 Hearing Unit shall determine only whether there was substantial evidence for the Director to take
14 the enforcement action from which the appeal was taken. The Administrative Hearing Unit may
15 not substitute its judgment for that of the Director.

16 (g) Every decision of the Administrative Hearing Unit shall be given in writing within thirty
17 (30) days of the hearing. A copy of each such decision shall be promptly filed with the Director
18 and a copy shall be sent by U.S. first-class mail, sent electronically, or otherwise delivered to the
19 appellant. An appellant aggrieved by a decision of the Administrative Hearing Unit may seek
20 reconsideration of the matter in accordance with Section 13-1128 of this Code and all provisions
21 of that Section shall apply to the disposition of the application for reconsideration. The decision
22 of the Hearing Administrator on an application for reconsideration shall constitute the final
23 decision of the Administrative Hearing Unit. Any party who, after having exhausted all
24 administrative remedies available, is aggrieved by a final decision of the Administrative Hearing
25 Unit may seek judicial review of that decision in the Circuit Court for Prince George's County,
26 Maryland, in accordance with the Maryland Rules. The filing of a petition for judicial review
27 does not stay an order of the Administrative Hearing Unit, unless a stay is granted by the circuit
28 court.

29 * * * * *

30
31 **SUBTITLE 13. – HOUSING AND PROPERTY STANDARDS.**

DIVISION 1. – PROPERTY STANDARDS AND MAINTENANCE.**Sec. 13-245. - Appeals.**

(a) Except as provided in this Section, an owner may appeal a notice of violation or a decision of the Director with respect to any provision of this Division by filing an appeal with the [Board of Administrative Appeals for Prince George's County, Maryland,] Administrative Hearing Unit established by Division 15 of this Subtitle within fifteen (15) calendar days or within the period required for compliance, whichever is shorter. The appeal shall state in detail the reasons for the appeal. The Administrative Hearing Unit shall hold a hearing upon the appeal and the proceedings shall be conducted in accordance with the procedures outlined in Sections 13-1134 through 13-1151 and Section 13-1153 through 13-1154 of this Code. The Director shall have the initial burden to establish the basis for the determination from which the appeal was taken. The appellant shall have the burden to establish by a preponderance of the evidence that the Director has misconstrued or wrongly interpreted the intent and meaning of this Code. The Administrative Hearing Unit shall determine only whether there was substantial evidence for the Director to take the enforcement action from which the appeal was taken. The Administrative Hearing Unit may not substitute its judgment for that of the Director.

(b) The decision of the [Board of Administrative Appeals] Administrative Hearing Unit shall be given in writing within thirty (30) days after the hearing is concluded. [Failure to render the decision within the time period allowed shall affirm the decision of the Director.] The [Board of Appeals] Administrative Hearing Unit shall not have jurisdiction to grant a variance from, extend the time of performance, or waive any requirement of Section 13-246.01, except upon a finding that litigation is pending in the courts and is being actively pursued. A copy of each such decision shall be promptly filed with the Director and a copy shall be sent by U.S. first-class mail, sent electronically, or otherwise delivered to the appellant. An appellant aggrieved by a decision of the Administrative Hearing Unit may seek reconsideration of the matter in accordance with Section 13-1128 of this Code and all provisions of that Section shall apply to the disposition of the application for reconsideration. The decision of the Hearing Administrator on an application for reconsideration shall constitute the final decision of the Administrative Hearing Unit.

(c) Any party aggrieved by the decision of the [Board of Administrative Appeals] Administrative Hearing Unit with respect to this Division may appeal such decisions to the

1 Circuit Court for Prince George's County, Maryland, pursuant to the rules governing appeals
2 from administrative agencies. All appeals shall be on the record. The filing of a petition for
3 judicial review does not stay an order of the Administrative Hearing Unit, unless a stay is
4 granted by the circuit court.

5 * * * * *

6 **Sec. 13-246.01. - Condemnation of open, hazardous structures.**

7 * * * * *

8 (f) The [Board of Appeals] Administrative Hearing Unit shall not have jurisdiction to grant
9 a variance or waive this Section except upon a finding that litigation is pending in the courts and
10 is being actively pursued.

11 * * * * *

12 **SUBTITLE 13. – HOUSING AND PROPERTY STANDARDS.**

13 **DIVISION 9. – ANTILITTER AND WEED ORDINANCE.**

14 **Sec. 13-270. - Appeals.**

15 (a) Within ten (10) calendar days from the certified mailing of the notice, or within ten
16 (10) calendar days after personal service of the notice, or within ten (10) calendar days after the
17 posting of the property, whichever is applicable, the owner or responsible person may file an
18 appeal with the [Board of Administrative Appeals] Administrative Hearing Unit established by
19 Division 15 of this Subtitle stating in detail the reasons as to why the action proposed by the
20 Director should not be taken.

21 (b) Upon receipt of such appeal, the [Board of Administrative Appeals] Administrative
22 Hearing Unit shall [put the cause on its agenda at their] schedule the matter its earliest
23 convenience, notify the appellant thereof, and hear the merits of the appeal. The proceedings
24 shall be conducted in accordance with the procedures outlined in Sections 13-1134 through 13-
25 1151 and Section 13-1153 through 13-1154 of this Code. The evidence at the hearing shall be
26 limited to challenges of the Director's determination that a violation exists and/or granting an
27 extension of time. The Director shall have the initial burden to establish the basis for the
28 determination from which the appeal was taken. The appellant shall have the burden to establish
29 by a preponderance of the evidence that the Director has misconstrued or wrongly interpreted the
30 intent and meaning of this Code. The Administrative Hearing Unit shall determine only whether
31 there was substantial evidence for the Director to take the enforcement action from which the

1 appeal was taken. The Administrative Hearing Unit may not substitute its judgment for that of
 2 the Director.

3 (c) The [Board's] Administrative Hearing Unit's decision shall be given in writing within
 4 thirty (30) calendar days after the hearing is concluded. [Failure to render the decision within the
 5 time period allowed shall affirm the decision of the Director.]. A copy of each such decision
 6 shall be promptly filed with the Director and a copy shall be sent by U.S. first-class mail, sent
 7 electronically, or otherwise delivered to the appellant. An appellant aggrieved by a decision of
 8 the Administrative Hearing Unit may seek reconsideration of the matter in accordance with
 9 Section 13-1128 of this Code and all provisions of that Section shall apply to the disposition of
 10 the application for reconsideration. The decision of the Hearing Administrator on an application
 11 for reconsideration shall constitute the final decision of the Administrative Hearing Unit.

12 (d) Any party aggrieved by the decision of the [Board of Administrative Appeals]
 13 Administrative Hearing Unit with respect to this Division may appeal such decision to the
 14 Circuit Court of Prince George's County, Maryland, pursuant to the rules governing appeals from
 15 administrative agencies. All appeals shall be on the record. The filing of a petition for judicial
 16 review does not stay an order of the Administrative Hearing Unit, unless a stay is granted by the
 17 circuit court.

18 **SUBTITLE 13. – HOUSING AND PROPERTY STANDARDS.**

19 **DIVISION 15. – ADMINISTRATIVE HEARINGS.**

20 **SUBDIVISION 1. – GENERAL PROVISIONS**

21 **Sec. 13-1121. - Definitions.**

22 (a) In this Division, the following terms shall have the meanings indicated:

- 23 (1) [**Administrative hearing officer** means an individual nominated by the Director,
 24 but shall be approved by the Board to conduct hearings or proceedings pursuant to
 25 this Division.] Administrative Citation means a prepayable citation issued for
 26 the violation of any law or regulation for which this Code provides for
 27 administrative adjudication under this Division and which charges a person with
 28 violation of the law or regulation and requires the person to pay a fine and abate
 29 the infraction.
- 30 (2) [**Board** means the Prince George's County Nuisance Abatement Board under
 31 Section 14-173 of the County Code.] Administrative [h]Hearing [o]Officer

1 means an individual nominated by the Director, but shall be approved by the
 2 Board to conduct hearings or proceedings pursuant to this Division.

3 (3) [**Chairperson** means the Chairperson of the Board or the Chairperson's designee.]

4 **Administrative Hearing Unit** means the panel of Administrative Hearing
 5 Officers that conduct hearings or proceedings pursuant to this Division.

6 (4) [**Charging agency** means the Department of Permitting, Inspections and
 7 Enforcement.] **Board** means the Prince George's County Nuisance Abatement
 8 Board under Section 14-173 of the County Code.

9 (5) [**Citation** means a prepayable citation issued for the violation of the law or
 10 regulations under the jurisdiction of an administrative hearing officer, which
 11 requires the Respondent to pay a fine and abate the infraction.] **Chairperson**
 12 means the Chairperson of the Board or the Chairperson's designee.

13 (6) [**Violation notice** means a document issued by a department inspector, or
 14 enforcement officer informing a party of non-compliance with the law that
 15 requires abatement.] **Charging agency** means the Department of Permitting,
 16 Inspections and Enforcement

17 (7) [**Inspector** means a County employee of the Department of Permitting,
 18 Inspections, and Enforcement who has been authorized by the employee's agency
 19 to issue citations, or violation[s] notices, under this Subtitle, or any other relevant
 20 provisions of the County Code.] **Day** in this Division, shall mean calendar days.

21 (8) [**Day**, in this Division, shall mean calendar days.] **Department** means the
 22 Department of Permitting, Inspections, and Enforcement.

23 (9) [**Department** means the Department of Permitting, Inspections, and Enforcement.]
 24 **Director** means the Director of the Prince George's County Department of
 25 Permitting, Inspections and Enforcement or the Director's designee.

26 (10) [**Director** means the Director of the Prince George's County Department of
 27 Permitting, Inspections and Enforcement or the Director's designee.] **Hearing**
 28 **Administrator** means an individual nominated by the Director and approved by
 29 the Board to consider and issue decisions where reconsideration of an
 30 Administrative Hearing Officer's decision is requested pursuant to Sec. 13-1128
 31 of this Code.

(11) **Party** means a charging agency or a respondent.] **Inspector** means a County employee of the Department of Permitting, Inspections, and Enforcement who has been authorized by the employee's agency to issue citations, or violation notices, under this Subtitle, or any other relevant provisions of the County Code.

(12) **Hearing Board Administrator** means an individual nominated by the Director, but shall be approved by the board to conduct hearings or proceedings. The Hearing Board Administrator is responsible for issuing decisions where reconsideration of an Administrative Hearing Officer's decision if requested.]

Party means a charging agency or a respondent.

(13) **Person** means:

- (A) an individual;
- (B) a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind; or
- (C) a partnership, firm, association, corporation, governmental agency, or other entity of any kind.

(14) **Prima facie evidence** [means evidence sufficient to establish a fact or facts that are not rebutted or contradicted is sufficient to sustain a judgment in favor of the issue of which it supports.] means evidence that, on its face, would be sufficient to establish something as a fact unless later rebutted by subsequent evidence to the contrary.

(15) **Probative** means tending to prove or disprove a point in a dispute.

(16) **Respondent** means the person to whom a citation is issued.

(17) **Violation notice** means a document issued by a department inspector, or enforcement officer informing a party of non-compliance with the law that requires abatement.

* * * * *

Sec. 13-1123. - General jurisdiction of the [Board] Administrative Hearing Unit.

The [Board] Administrative Hearing Unit has full authority to enforce the provisions of this Division, including any rules and regulations adopted under them.

Sec. 13-1124. - Rulemaking authority.

1 (a) **In general.** The Director shall recommend rules and regulations to the [Board]
 2 Administrative Hearing Unit. The [Board] Administrative Hearing Unit may accept or reject the
 3 recommendations as it deems appropriate. The [Board] Administrative Hearing Unit shall adopt
 4 rules and regulations necessary to carry out its powers and duties, which they may amend, under
 5 this Division and shall make those rules and regulations publicly available.

6 (b) **Matters included.** The rules and regulations shall include:

- 7 (1) procedures for the issuance and enforcement of administrative citations, notices of
 8 violations, civil fines, and civil penalties;
- 9 (2) procedures for the adjudication of contested matters [citations], including the
 10 conduct of hearings and appeals by the Administrative Hearing Unit. [panels of the
 11 Board or the full Board.]
- 12 (3) procedures for the enforcement of any [abatement] order that is contained in a
 13 citation or made part of an order or decision of an [a] Administrative [h] Hearing
 14 [o] Officer. [panel of the Board, or the full Board;] and
- 15 (4) procedures for authorizing, but not mandating electronic filing.

16 **Sec. 13-1125. – Administrative Citations.**

17 [(a) **Board to prescribe.** The Board shall prescribe the form and wording of citations. The
 18 Director shall make recommendations, which the Board may accept or reject.]

19 [(b)](a) **Required contents.** [In addition to any other matters that the Board prescribes, a] A
 20 citation issued under this Division shall include, at a minimum:

- 21 [(1) the name and/or address, of the person and/or the property cited;
- 22 [(2) the violation with which the person is cited, including a reference to the specific
 23 law in question;
- 24 [(3) the manner and time in which the person shall either:
- 25 (A) pay the prepayable fine prescribed for the violation; or
- 26 (B) request a hearing on the violation;
- 27 [(4) the time within which the violation, if ongoing, shall be abated; and
- 28 [(5) a notice that failure to act in the manner and time stated in the citation may
 29 result in a default decision and order entered against the person or entity.]
- 30 [(1) date of issuance;
- 31 [(2) the name and address of the party charged;

1 (3) the address of the location at which the violation occurred;

2 (4) the date and time that the violation occurred;

3 (5) a description of the nature of the violation;

4 (6) the section of this Code that was violated;

5 (7) the manner and time in which the person shall either:

6 (A) pay the prescribed fine prescribed for the violation and correction of
 7 the violation or

8 (B) request a hearing on the violation;

9 (8) the time within which the violation, if ongoing, must be abated; and

10 (9) a notice that failure to pay the fine and correct the violation, or to request
 11 a hearing, within the prescribed time may result in a default decision and
 12 order entered against the party.

13 (b) **Service of citations.** A citation shall be:

14 (1) issued by an Inspector; and

15 (2) served on the person or property and the property owner cited by one of the
 16 following methods:

17 (A) in person;

18 (B) [certified mail, return receipt requested] first class mail;

19 (C) delivery to a person 18 years or older who resides at the cited person's
 20 last known address; or

21 (D) posting on the front door of the property; or

22 (E) delivery to the registered agent by first class mail.

23 (3) if applicable, mailed to the property owner and registered management agent
 24 for multifamily property.

25 (c) **Effect of citation.** When properly issued and served, the citation or a copy of it shall:

26 (1) constitute full and complete notice of the violation cited in it;

27 (2) constitute full and complete notice of an order of abatement, if abatement is
 28 ordered; and

29 (3) constitute prima facie evidence of the facts contained in it, if sworn to or
 30 affirmed under the penalties of perjury.

31 [a. Prima facie evidence is evidence sufficient to establish a fact or facts that if

not rebutted or contradicted is sufficient to sustain a judgment in favor of the issue of which it supports.]

- (d) **Single document permissible.** A single document may be used to issue two or more separately numbered citations.
- (e) **Electronic signature.** An electronic signature may be used to execute a citation and to serve as an affirmation, under the penalties of perjury, that the facts stated in the citation are true.
- (f) **Records of citation to be kept.** The original or a copy of the citation shall be filed and retained in the records of the [Board] Administrative Hearing Unit.

Sec. 13-1126. - Default of administrative citation.

- (a) **Failure to respond to administrative citation constitutes an admission of liability.**

Any person cited under an administrative citation is conclusively considered to have admitted liability for the violation cited and responsibility for abating the violation if, after thirty (30) days of service of the violation, the person:

- (1) fails to pay the prescribed prepayable fine and abate the violation; or
- (2) fails to request a hearing on the violation; or
- (3) fails to appear on the designated hearing date, if the party has requested a hearing.

- (b) **Order of an [a]AAdministrative [h]HHearing [o]Officer, default penalty.** Under any of the circumstances described in subsection (a) of this section, an [a]AAdministrative [h]HHearing [o]Officer may:

- (1) render a default decision and order against the [person or property cited] Respondent; and
- (2) impose a civil penalty, after consideration of certain factors, which may include, the nature and severity of the underlying violation, history of past violations, mitigating or aggravating circumstances, that is:
 - (A) no less than the amount of the prepayable fine specified for the violation in question; and
 - (B) a maximum of:
 - (i) one thousand dollars (\$1,000); or
 - (ii) three times the prepayable fine specified for the violation in question.

1 (c) **Notice of default order.** Before an order based on a default becomes final, an
2 [a]Administrative [h]Hearing [o]Officer shall notify the [r]Respondent, by first-class mail, of:

- 3 (1) the default decision and order;
4 (2) the amount of all penalties imposed; and
5 (3) the right of the [r]Respondent, within thirty (30) days of the notice, to avoid a
6 final judgment and collection proceedings by requesting [a stay of] that the default be
7 vacated for good cause shown [and a hearing on the request.]

8 **Sec. 13-1127. - Administrative adjudications.**

9 (a) **In general.** The [Board] Administrative Hearing Unit, acting through its
10 [a]Administrative [h]Hearing [o]Officers, [panels of the Board] and other authorized agents
11 shall:

- 12 (1) conduct hearings and other proceedings for adjudicating violations of the
13 laws, rules, and regulations enforced by the [Board] Administrative Hearing
14 Unit; and
15 (2) have full authority to render decisions and orders, as well as impose civil
16 penalties provided by law for those violations.

17 (b) **[Unappealed decision of a hearing officer.** Unless otherwise specified by the
18 Board,] every decision of an [a]Administrative [h]Hearing [o]Officer [or panel of the
19 Board] from which no reconsideration is sought [from which no timely appeal is taken to
20 the full Board] constitutes a final [decision] action of [the Board] Administrative Hearing
21 Unit.

22 **Sec. 13-1128 - Reconsideration.**

23 (a) A [person] Respondent found liable at a hearing conducted pursuant to [Section 13-
24 1127] this Subtitle shall be entitled to reconsideration of the matter if a written application
25 is received by the Department or is postmarked within 10 calendar days of the date of a
26 finding of liability.

- 27 [(1) A person must first seek a reconsideration of the hearing decision conducted
28 pursuant to Section 13-1207 before filing an appeal pursuant to Section 13-1156.]

29 (b) The application for reconsideration shall set forth one or more of the following
30 grounds:

- 31 (1) Newly discovered or newly available relevant evidence;

- 1 (2) Need for additional evidence to establish a defense;
- 2 (3) Probable error committed by the [hearing examiner] Administrative Hearing
- 3 Officer in the proceeding, including failure to judicially notice a fact on which
- 4 the decision of the Administrative Hearing Officer [hearing examiner] rests or
- 5 failure to inform the respondent of a judicially noticed fact on which the
- 6 decision of the Administrative Hearing Officer [hearing examiner rests]; or
- 7 (4) A clear need for further consideration of the issues.

8 (c) An application for reconsideration shall contain all documents or evidence in support

9 of reconsideration.

10 (d) On reconsideration, the matter [may] shall be reviewed by the Hearing [Board]

11 Administrator, or a designee. The Hearing Administrator shall issue a decision on an

12 application for reconsideration within sixty (60) days of receipt of the application.

13 [(e) If an application for reconsideration is timely submitted, the 30-day time for filing an

14 appeal to the appeals board shall begin on the date that the reconsideration decision is

15 served.

16 (f) A person shall not have an opportunity to appeal a finding of liability by a hearing

17 examiner to the appeals board unless the person's liability is affirmed upon

18 reconsideration.]

19 Failure by [a hearing examiner] the Hearing A[a]dministrator, or a designee, to issue a

20 decision within [30] sixty (60) calendar days after receipt of an application for

21 reconsideration shall be deemed a decision in favor of the [applicant]Respondent.

22 (e) A decision on application for reconsideration constitutes the final decision of the

23 Administrative Hearing Unit.

24 **Sec. 13-1129. - Judicial and appellate review.**

25 (a) **Judicial review.**

26 (1) Any [person] party who, after having exhausted all administrative remedies

27 available is aggrieved by a final decision of the [Board] Administrative Hearing

28 Unit may seek judicial review of that decision by petition to the Circuit Court

29 for Prince George's County in accordance with the Maryland Rules.

30 (2) The filing of an appeal does not stay an [Board] order of the Administrative

31 Hearing Unit, unless the Circuit Court for Prince George's County grants a stay.

1 (b) **Appellate review.** A party to the judicial review may appeal the court's final
 2 judgment to the Court of Special Appeals in accordance with the Maryland Rules.

3 **Sec. 13-1130. - Fines and penalties.**

4 (a) **Penalty as debt and lien.** Any civil penalty imposed on a person by the [Board]
 5 Administrative Hearing Unit, whether on hearing, on default, or otherwise:

- 6 (1) is a personal debt owed by that person to the County; and
- 7 (2) if the offense involves real property owned by that person, creates a lien on
 8 that property in favor of the County.

9 (b) **Collection of penalties and liens.** All penalties and liens incurred under this
 10 Division:

- 11 (1) are collectible from and enforceable against any of the assets of the person
 12 who incurred the penalty; and
- 13 (2) may be collected and enforced in the same way that the County collects and
 14 enforces other debts due to it or liens in its favor.

15 (c) **Priority over other liens and encumbrances.** All penalties and liens incurred under
 16 this Division have priority over all other liens and encumbrances, except taxes or other
 17 government assessments.

18 **Sec. 13-1131. - Abatement orders.**

19 (a) **Payment does not relieve obligation to correct.**

- 20 (1) Payment of a fine does not relieve the respondent of the obligation to correct
 21 ongoing violations by the date specified in the administrative citation.
- 22 (2) Additional administrative citations may be issued for uncorrected violations by the
 23 date specified in the citation.

24 (b) **Correction does not relieve obligation to pay.** The correction of a violation does not
 25 relieve the respondent of the obligation to pay the prescribed fine.

26 **(c) Authority to abate violations upon issuance of final decision of Administrative**
 27 **Hearing Unit.** In the event that a Respondent fails to comply with a final decision by the
 28 Administrative Hearing Unit that includes an order to abate a violation within fifteen (15)
 29 days of the issuance of the final decision, the Department is hereby authorized and
 30 empowered to undertake the abatement of the violation by County personnel or by contract.
 31 The Department is further authorized to defray the costs of the abatement by assessing

1 those costs to Respondent. Respondent shall be responsible for those costs and shall be
 2 notified through the issuance of a written notice served through the following means:

- 3 (1) Mailing by United States Postal Service first-class mail addressed to Respondent
 4 and mailed to the property at which the violation occurred, and
 5 (2) Mailing by United States Postal Service first-class mail addressed to Respondent
 6 and mailed to any address provided by Respondent to the Administrative Hearing
 7 Unit during the course of administrative proceedings, and
 8 (3) if the Respondent is the record owner of the property at which the violation
 9 occurred, mailing by United States Postal Service first-class mail to the address
 10 shown for Respondent on the real property tax records in the Treasurer's Office for
 11 Prince George's County.

12 (d) **Charges included in tax bill.** Where the full amount due the County for the costs of
 13 abatement in accordance with subsection (c) above is not paid by Respondent within thirty
 14 (30) days after written notice, the Department shall cause to be recorded with the Director
 15 of Finance a sworn statement showing the cost and expense incurred for the work, the date
 16 the work was done, and the location of the property on which said work was done.
 17 Recordation of such statement shall constitute a lien on such property and shall be collected
 18 in the same manner as other County real estate taxes.

19 (e) **Assistance of law enforcement in carrying out abatement order.** The Department
 20 may request the assistance of law enforcement, including the Police Department, to
 21 undertake any abatement action authorized by this Subtitle. The Police Department is
 22 authorized to assist in any such abatement action upon the request of the Department.

23 **Sec. 13-1132. – Judicial assistance in enforcement.**

24 In addition to the remedies provided in Section 13-1131 above, [T]the [Board] Department may
 25 apply to a court of competent jurisdiction for enforcement of any decision, order, or subpoena
 26 issued [by the Board] under this division.

27 **Sec. 13-1133. - Violations to which subtitle applies.**

28 (a) **In general.** The jurisdiction and authority of the [Board] Administrative Hearing Unit
 29 extends to each of the provisions of the Prince George's County Code that are specified in
 30 subsection (e) of this section, as those provisions may be amended, including any rules and
 31 regulations adopted under them. The issuance of an administrative citation does not

1 preclude pursuit of any other remedy or enforcement action authorized by law.

2 (b) **Prepayable fines.**

3 (1) The basic prepayable civil fine for a violation of a provision is specified next to
4 the listing of that provision in subsection (e) of this section.

5 (2) The basic prepayable fines is doubled, however, on any administrative citation
6 that is issued to a person or property if, within the past twelve (12) months:

7 (A) a final order of an Administrative Hearing Officer, whether issued on
8 hearing, on default, or otherwise, imposed a penalty on that person or
9 property for a violation of the same provision; or

10 (B) that person prepaid an administrative citation for violation of the same
11 provision.

12 (c) **Continuing violations.** If a provision of law provides that the continuation or
13 reoccurrence of a violation constitutes a separate offense, a separate citation may be issued
14 for each separate offense.

15 (d) **Prior notice not required.** Notwithstanding any other provision of the Prince
16 George's County Code to the contrary, notice need not be given before the issuance and
17 enforcement of an administrative citation for any of the provisions listed in subsection (e)
18 of this section.

19 (e) **Provisions and penalties enumerated.**

20 (1) In Section 13-101 of the County Code, the County adopted the International
21 Property Maintenance Code, as amended in Subtitle 13 and known as the
22 "Housing Code." An [i]Inspector may issue and an Administrative Hearing
23 Officer may adjudicate administrative citations issued pursuant only to Sections
24 108, 301, 302, 303, 304, 305, 306, and 404 of the Housing Code, and all of the
25 respective subsections thereunder. The penalty for violation of any of the
26 enumerated sections is \$300.00 per violation.

27 (2) In Subtitle 4, Division 1 of the County Code, the County adopted and amended
28 certain provisions of the International Building Code and the International Residential
29 Code. An Inspector may issue and an Administrative Hearing Officer may adjudicate
30 notices of violation and administrative citations issued pursuant to Sections 4-116, 4-117,
31 4-255, and 4-256 and all of the respective subsections thereunder. The penalty for

1 violation of any of the enumerated sections is \$500.00 per violation.

2 (3) In Subtitle 5, Division 8 of the County Code, the County enacted licensing
3 requirements for short-term rentals. An [I]nspector may issue and an Administrative
4 Hearing Officer may adjudicate penalties, citations, suspensions, and revocations issued
5 pursuant to Sections 5-175.05, 5.175.06, and 5-175.07 of this Code, and all of the
6 respective subsections thereunder. The penalty for violation of any of the enumerated
7 sections is \$1000.00 per violation.

8 **SUBDIVISION 2. – GENERAL RULES FOR PROCEEDINGS.**

9 **Sec. 13-1134. - Scope.**

10 (a) These rules and regulations in conjunction with the [Boards] Administrative Hearing
11 Unit’s promulgated rules and regulations shall govern all proceedings under this Division.

12 **Sec. 13-1135. - Filing with the [Chairperson] Administrative Hearing Office.**

13 (a) All documents permitted or required to be filed with the [Board] Administrative
14 Hearing Unit shall be filed in accordance with the established rules of the Administrative
15 Hearing Unit. [with the chairperson.]

16 **Sec. 13-1136. - Form and Service of Documents.**

17 (a) **Captions.** Each document filed with the [Board] Administrative Hearing Unit shall
18 contain a caption that sets forth:

- 19 (1) the title of the action;
- 20 (2) the citation number or the docket number assigned to the proceeding; and
- 21 (3) a brief descriptive title of the document that indicates its nature.

22 * * * * *

23 (e) **Service.**

- 24 (1) This subsection applies to all documents, except for administrative citations, that
25 are required to be served on other parties.
- 26 (2) If service is required on a party represented by an attorney, service shall be
27 made on the attorney unless the party is [pro-se] self-represented, then service
28 shall be made upon the party through either first-class mail to the party or, if
29 applicable, a registered agent.
- 30 (3) Each document shall be accompanied by a signed certificate of service that
31 specifies the date, manner of service and copies were provided to all parties.

1 **(f) Electronic Filing**

2 (1) The Administrative Hearing Unit may prescribe methods to allow parties to
 3 submit any required papers or documents through electronic means. The submission of
 4 any paper or documents through electronic means shall constitute filing for all
 5 purposes under this Subtitle so long as the submission complies with the prescribed
 6 methods in all respects.

7 (2) Requirements for electronic filing of papers:

8 (aa) All papers to be filed electronically shall be submitted in an electronic
 9 format to be specified by the Administrative Hearing Unit. Any specifications as
 10 to particular filing formats shall be made publicly available through the public
 11 website for the Administrative Hearing Unit.

12 (bb) All papers or documents that are required to be signed must include the
 13 signer's typewritten name accompanied by a visual image of the signer's
 14 handwritten signature or by the symbol /s/.

15 (3) A party who elects to file papers electronically assumes responsibility for any
 16 delay, disruption, interruption of electronic signals, and legibility and completeness of
 17 the paper. The Administrative Hearing Unit shall make all reasonable efforts to
 18 resolve any such complications, but a party who elects to file papers electronically
 19 accepts the risk that any of the above circumstances may result in a determination by
 20 the Administrative Hearing Unit that a submission may be deemed not filed or not
 21 timely filed.

22 **Sec. 13-1137. - Appearances.**

23 (a) **In general.** Persons are permitted to participate in proceedings before the [Board]
 24 Administrative Hearing Unit as provided in this section.

25 (b) **Individuals.** An individual respondent may appear:

- 26 (1) in person, in his or her own behalf;
 27 (2) by an attorney licensed to practice in the State of Maryland; or
 28 (3) by an person with a valid Power of Attorney that meets the requirements set
 29 forth by the Administrative Hearing Unit.

30 (c) **Businesses.** A business, non-profit organization, or government agency may appear:

- 31 (1) by an attorney licensed to practice in the State of Maryland; or

(2) to the extent allowed by law, by any officer, employee, or authorized agent.

Sec. 13-1138. - Records.

(a) **Administrative Hearing Unit [Chairperson] to keep.** The [chairman] Administrative Hearing Unit shall maintain files containing all documents, evidence, and other items and information submitted to or produced by an administrative hearing officer [or the Board] during the course of a proceeding.

(b) **Files to be public.** These files shall be available for public inspection in accordance with the Maryland Public Information Act, Section 4-101 et seq. of the General Provisions Article of the Annotated Code of Maryland.

Sec. 13-1139. - Pre-Hearing Requests to Reschedule.

[(a) **Chairperson Hearing Administrator may grant**]. On written application to the [Chairperson] Hearing Administrator and for good cause shown, the [Chairperson] Hearing Administrator may [postpone] reschedule a scheduled hearing for a brief period, [or reschedule the hearing].

[(b) Subsequent requests. In case of a request for a subsequent postponement or rescheduling of the same hearing, the [Chairperson] Hearing Administrator may:

- (1) deny the request;
- (2) require that the respondent appear at the scheduled hearing; or
- (3) allow the respondent to present a request for rescheduling.]

* * * * *

Sec. 13-1141. - Discovery by Respondent.

(a) **In general.**

(1) On timely, written request, a respondent is entitled to receive from the charging agency:

- (A) a list of the names of witnesses intended to be called; and
- (B) copies of documents intended to be submitted into evidence.

(2) To be timely, the request must be submitted to the [Chairman] Hearing Administrator at least fifteen (15) days before the scheduled hearing.

(3) The [Chairperson] Hearing Administrator shall forward the request to the charging agency within forty-eight (48) hours of submission.

(4) Within seven (7) days after it receives the request from the [Chairperson]

Hearing Administrator, the charging agency shall serve a written response on the respondent, with a copy sent to the [Chairman] Hearing Administrator.

* * * * *
Sec. 13-1143. - Timing of hearing.

(a) In general. Absent a showing of good cause, and unless a specific time standard is prescribed by another provision of this Code, the hearing date shall be within one hundred eighty (180) days of [proper service of the citation] the filing of a request for hearing or appeal filed under this Subtitle or under another provision of this Code.

(b) Accelerated hearing. A Respondent or other appellant may [If the respondent] waive[s] the twenty (20) days' notice provision in Section 13-1142 of this Subdivision and may request[s] an accelerated hearing[.]. Upon receipt of a request for accelerated hearing, the [Chairperson] Hearing Administrator may assign the case for an immediate hearing, on appropriate notice to the charging agency and subject to the [opportunity] availability [for] of the charging agency to appear. By requesting an accelerated hearing, [respondent] a party waives any right to discovery.

* * * * *
Sec. 13-1145. - Record.

The [Board] Administrative Hearing Unit shall arrange for a stenographic, mechanically, and/or digitally-created record of all hearings.

* * * * *
Sec. 13-1148. - General duties and powers of an [a]Administrative [h]Hearing [o]Officer.

(a) **General duties.** An [a]Administrative [h]Hearing [o]Officer has the duty to:

- (1) conduct a fair and impartial hearing;
- (2) take all necessary action to avoid delay in the disposition of proceedings;
- (3) maintain order; and
- (4) ensure the hearing provides fundamental fairness.

(b) **General powers.** An [a]Administrative [h]Hearing [o]Officer has all powers necessary to these ends, including the power to:

- (1) administer oaths and affirmations;
- (2) issue discovery orders and rule on objections to those orders;
- (3) receive evidence and rule on offers of proof;

- 1 (4) regulate the course of the hearing and the conduct of the parties and their
- 2 representatives;
- 3 (5) hold conferences for simplification of issues or for any other proper purposes;
- 4 (6) interrogate witnesses;
- 5 (7) consider and rule on all procedural and other motions, including requests for
- 6 adjournment; and
- 7 (8) make and file recommended decisions and orders.

8 **Sec. 13-1149. - Ex-parte communications.**

9 An [a]Administrative [h]Hearing [o]Officer may not receive any ex-parte communication from
 10 any party, including, but not limited to, the charging agency, or [from] a Respondent or appellant
 11 [individual members of the Board] about a proceeding.

12 **Sec. 13-1150. - Impartiality.**

13 (a) **In general.** An [a]Administrative [h]Hearing [o]Officer should disqualify himself or
 14 herself from any hearing in which the [a]Administrative [h]Hearing [o]Officer's impartiality
 15 might reasonably be questioned, including any instances in which the [a]Administrative
 16 [h]Hearing [o]Officer:

- 17 (1) has a personal bias or prejudice about a party;
- 18 (2) has personal knowledge of disputed evidentiary facts in the proceeding;
- 19 (3) served as a lawyer in the matter in controversy or was professionally associated
- 20 with another person while that person served as a lawyer in the matter in
- 21 controversy;
- 22 (4) has been a material witness to the matter;
- 23 (5) has a financial interest in the subject matter in controversy or in a party to the
- 24 proceeding;
- 25 (6) has any other interest that could be substantially affected by the outcome of the
- 26 proceeding;
- 27 (7) knows that his or her spouse or dependent child:
 - 28 (A) is serving as a lawyer in the matter in controversy or is professionally
 - 29 associated with another person who is serving as a lawyer in the
 - 30 matter in controversy;
 - 31 (B) is likely to be a material witness in the proceeding;

1 (C) has a financial interest in the subject matter in controversy or in a
2 party to the proceeding; or

3 (D) has any other interest that could be substantially affected by the
4 outcome of the proceeding; or

5 (8) any other reason creating a conflict of interest.

6 (b) **Motion to disqualify.**

7 (1) A party may request that an [a]Administrative [h]Hearing [o]Officer
8 disqualify him- or herself for good cause shown. The request shall be ruled on by
9 the [a]Administrative [h]Hearing [o]Officer in the proceeding.

10 (2) If the [a]Administrative [h]Hearing [o]Officer denies the request, the party
11 may obtain a brief adjournment to seek review by the [Chairperson] Hearing
12 Administrator.

13 (c) **Notice of disqualification.** When an [a]Administrative [h]Hearing [o]Officer
14 disqualifies him- or herself from a proceeding, the [a]Administrative [h]Hearing [o]Officer
15 shall do so on the record and shall notify the [Chairperson] Hearing Administrator of the
16 recusal.

17 (d) **Replacement.** On disqualification of an [a]Administrative [h]Hearing [o]Officer, the
18 [Chairperson] Hearing Administrator shall appoint another [a]Administrative [h]Hearing
19 [o]Officer to conduct the hearing.

20 **Sec. 13-1151. - Amendments to administrative citations.**

21 (a) **[a]Administrative [h]Hearing [o]Officer may allow.** If doing so will facilitate the
22 determination of a controversy on the merits, an [a]Administrative [h]Hearing [o]Officer
23 may allow, upon written motion by the applicable party and leave of the [a]Administrative
24 [h]Hearing [o]Officer, appropriate amendments to a citation or notice of violation, subject
25 to conditions necessary to avoid injustice, prejudice or unfair surprise to a party.

26 (1) **Without Leave of the Administrative Hearing Officer.** A charging agency
27 may file an amendment to citation or notice of violation without leave of the
28 [a]Administrative [h]Hearing [o]Officer by the date set forth in a scheduling order or, if
29 there is no scheduling order, no later than 30 days before a scheduled hearing date. Within
30 15 days after service of an amendment, any other party to the action may file a motion to
31 strike setting forth reasons why the [court] Administrative Hearing Officer should not allow

1 the amendment. If an amendment introduces new facts or varies the case in a material
 2 respect, an adverse party who wishes to contest new facts or allegations shall file a new or
 3 additional answer to the amendment within the time remaining to answer the original
 4 citation or within 15 days after service of the amendment, whichever is later. If no new or
 5 additional answer is filed within the time allowed, the answer previously filed shall be
 6 treated as the answer to the amendment.

7 (b) **Conformance to evidence.** When issues reasonably within the scope of a citation,
 8 but not expressly raised by the citation, are tried with both parties present:

9 (1) the issues shall be treated in all respects as if they had been raised by the
 10 citation; and

11 (2) provided it is not prejudicial, amendments of the citation may be made at any
 12 time necessary to make it conform to the evidence, with leave or permission of the
 13 [Board] Administrative Hearing Officer.

14 **Sec. 13-1152. - Burden of proof for administrative citations.**

15 (a) **In general.** The charging agency has the burden of proof in establishing by a
 16 preponderance of the evidence that the respondent has committed the violations charged in
 17 the citation.

18 (b) **Citation as prima facie evidence.** If a citation is sworn to or affirmed under the
 19 penalties of perjury, the citation constitutes prima facie evidence of the facts stated in it.
 20 [Prima facie evidence is evidence sufficient to establish a fact or facts that if not rebutted or
 21 contradicted is sufficient to sustain a judgment in favor of the issue of which it supports.]

22 **Sec. 13-1153. - Evidence.**

23 (a) **In general.** Unless otherwise provided by these rules and regulations, the proceedings
 24 shall be conducted in an informal manner and the strict rules of evidence shall not apply.

25 (b) **Right to submit.** On a genuine issue of fact, a party is entitled to:

26 (1) call witnesses;

27 (2) offer evidence; including rebuttal evidence;

28 (3) cross-examine any witness that another party calls; and

29 (4) present summation and argument.

30 (c) **Scope.** The [a]Administrative [h]Hearing [o]Officer;

31 (1) may admit probative evidence that reasonable and prudent individuals

1 commonly accept in the conduct of their affairs and give probative effect to that
 2 evidence.

3 [(A) Probative means tending to prove or disprove a point in a dispute.]

4 (2) may not exclude evidence solely on the basis that it is hearsay;

5 (3) shall give effect to a privilege recognized by law;

6 (4) may take official notice of a fact that is judicially noticeable or that is general,
 7 technical or scientific and within the specialized knowledge of an [a]Administrative
 8 [h]Hearing [o]Officer; and

9 (5) may exclude evidence that is:

10 (A) incompetent;

11 (B) irrelevant;

12 (C) immaterial;

13 (D) unduly repetitious;

14 (E) unduly prejudicial.

15 [(d) **Exceptions.** Formal objections to an adverse ruling are not required at the time of
 16 the ruling to preserve a matter for appeal before the Board].

17 **Sec. 13-1154. - Stipulation instead of hearing.**

18 (a) **Stipulation authorized.** At any time before the [a]Administrative [h]Hearing
 19 [o]Officer issues a recommended decision and order, the charging agency may offer the
 20 respondent a settlement of the matter by stipulation instead of a further hearing.

21 (b) **Required elements.** The stipulation shall:

22 (1) be in the manner and form set by the [Chairperson] Administrative Hearing
 23 Unit; and

24 (2) contain:

25 (A) an admission of the violation;

26 (B) the facts stipulated to;

27 (C) the amount of the penalty to be imposed; and

28 (D) the compliance to be ordered, if any.

29 (c) **Before initial hearing.**

30 (1) If the stipulation is entered into and filed with the [Board] Administrative
 31 Hearing Unit before the initial hearing on the matter, the stipulation shall be reviewed

1 by an [a]Administrative [h]Hearing [o]Officer.

2 (2) Within a reasonable time after the stipulation has been filed, the Administrative
3 Hearing Officer shall:

4 (A) issue a final written decision and order that incorporates the terms of the
5 stipulation; or

6 (B) order the matter to be rescheduled for a hearing by an [a]Administrative
7 [h]Hearing [o]Officer, if the stipulation is not acceptable to the [a]Administrative
8 [h]Hearing [o]Officer.

9 (d) **During hearing.** If the stipulation is entered into during the course of a hearing and if
10 an [a]Administrative [h]Hearing [o]Officer approves the stipulation, it shall be incorporated
11 into an [a]Administrative [h]Hearing [o]Officer's written decision and order.

12 [(e) **Stipulation not appealable.** Decisions and orders based on stipulations are not
13 appealable.]

14 **Sec. 13-1155. - Decisions and Orders.**

15 (a) **Administrative hearing officer to prepare.** An [a]Administrative [h]Hearing
16 [o]Officer shall prepare a written decision and order within thirty (30) days of the
17 completion of a hearing.

18 (b) **Decision.** An [a]Administrative [h]Hearing [o]Officer's written decision shall set
19 forth:

20 (1) finding of fact and conclusions of law; and

21 (2) the [a]Administrative [h]Hearing [o]Officer's reasons for its findings on all
22 material issues.

23 (c) **Order.** If an [a]Administrative [h]Hearing [o]Officer finds that the charges in [the] an
24 administrative citation should be upheld, the [a]Administrative [h]Hearing [o]Officer shall
25 prepare a written order that sets forth:

26 (1) the penalty; and

27 (2) the remedial relief or sanctions, if authorized by law to impose such remedial
28 relief or other sanctions.

29 (d) **Filing.** The decision and order shall be filed with the [Chairperson] Administrative
30 Hearing Unit and properly served on all parties.

31 (e) **Finality.** If a timely [appeal] application for reconsideration is not filed under Section

1 [13-1156] 13-1128 of the Prince George's County Code, the [a]Administrative [h]Hearing
2 [o]Officer's recommended decision and order:

3 (1) shall be adopted by the [Board] Administrative Hearing Unit, without further
4 action; and

5 (2) constitutes the [Board] Administrative Hearing Unit 's final action in the matter.

6 SECTION 4. BE IT FURTHER ENACTED by the County Council of Prince George's
7 County, Maryland, that Sections 13-1156, 13-1157, 13-1158, 13-1159, 13-1160, 13-1161, 13-
8 1162, 13-1163, and 13-1164 of the Prince George's County Code be and the same are hereby
9 repealed:

10 **SUBTITLE 13. – HOUSING AND PROPERTY STANDARDS.**

11 **DIVISION 15. – ADMINISTRATIVE HEARINGS.**

12 **SUBDIVISION 5. – [ADMINISTRATIVE REVIEW]Reserved.**

13 **[Sec. 13-1156. - Appeal of decision and order.]**

14 [(a) Filing.

15 (1) Any party aggrieved by the decision and order may file a written appeal with the
16 Board.

17 (2) Except as otherwise provided in Sections 13-1128 and 13-1156 of the County
18 Code, an appeal shall be filed within thirty (30) days after the final decision and order
19 is delivered or mailed to the parties.

20 (3) The appeal shall contain:

21 (A) a concise statement of the issues presented;

22 (B) specific objections to the findings of fact and conclusions of law set forth in the
23 decision and order; and

24 (C) arguments that clearly present the points of law and facts relied on in support of
25 the position taken on each issue.

26 (4) The appeal must be accompanied by payment in full of both of the following, to
27 the extent not previously paid:

28 (A) the fine imposed by the decision and order; and

29 (B) the fee for any transcript requested under Section 13-1156 of the County Code.

30 (b) Answer.

31 (1) Within twenty (20) days after the appeal has been served on a party, that party

1 may file an answer.

2 (2) The answer must comply with the requirements of subsection (a) of this section
3 for contents and service.

4 (c) Replies. Further briefing is not permitted unless the Board otherwise directs.]

5 **[Sec. 13-1157. - Transcripts.]**

6 [(a) In general. A party may apply in writing for a written copy of the transcript of the
7 hearing at any time:

8 (1) within the period allowed for filing an appeal; or

9 (2) if later, within thirty (30) days after the other party has filed an appeal.

10 (b) Extension of time. If an application is timely made under subsection (a) of this
11 section, the time within which an appeal shall be filed is extended to twenty (20) days from
12 the date when the transcript is delivered or mailed to the party who requested it.

13 (c) Fee. The Board may charge the person who requested the transcript a fee for the
14 transcript, including the expense of transcription.]

15 **[Sec. 13-1158. - Applications to extend time.]**

16 [An application to extend the time for filing appeals or answers for any reason shall be:

17 (a) made in writing to the Chairperson; and

18 (b) supported by evidence of impossibility or other explanation of inability to file
19 timely.]

20 **[Sec. 13-1159. - Review to be on record.]**

21 [(a) In general. When an appeal has been filed, the Board shall consider the entire matter
22 on the basis of the record before it.

23 (b) Records elements. The record shall include:

24 (1) the citation;

25 (2) the transcript of the hearing; and

26 (3) all briefs filed and exhibits received in evidence during the proceedings before
27 the administrative hearing officer;

28 (4) All briefs and exhibits filed in support of the appeal; and

29 (5) the administrative hearing officer's decision.

30 (c) Witness credibility. The Board shall give due regard to an administrative hearing
31 officer's opportunity to judge the credibility of any witnesses.

1 (d) Additional evidence or argument. If the Board considers it necessary or appropriate, it
 2 may:

- 3 (1) order further testimony or evidence to be taken or submitted; or
- 4 (2) order oral argument on any or all the questions raised on appeal.]

5 **[Sec. 13-1160. - Decision and order on Appeal.]**

6 [(a) In general.

- 7 (1) After review, the Board shall issue its decision and order resolving the appeal.
- 8 (2) In its decision and order, the Board may:
 - 9 (i) uphold, concur with, reverse, or modify the administrative hearing officer's
 - 10 decision and order; or
 - 11 (ii) remand the matter for further proceedings.

12 (b) Decision. The Board's decision shall contain findings of fact and conclusions of law.

13 (c) Order. The Board shall issue an order that:

- 14 (1) is consistent with its decision; and
- 15 (2) exercises those powers of the Board that the Board considers appropriate and is
- 16 pursuant to Division 15 of this Subtitle.]

17 **[Sec. 13-1161. - Corrections to the Board's decision and order.]**

18 [(a) In general. Any party may apply to the Board in writing to correct ministerial errors
 19 or errors due to mistake of fact or law, fraud, irregularity or clerical error.

20 (b) Time for filing. The application shall be filed within ten (10) days after the mailing of
 21 the Board's written final decision and order.]

22 **[SUBDIVISION 6. - DEFAULT PROCEEDINGS.]**

23 **[Sec. 13-1162. - Request for waiver.]**

24 [(a) In general. A request for a waiver shall be made in writing and mailed to the
 25 Chairperson within thirty (30) days after the mailing of the Notice of Default.

26 (b) Delayed request. If a request is made later than the time prescribed by subsection (a)
 27 of this section but within ninety (90) days after the mailing of the Notice of Default, the
 28 Chairperson may process the request if the respondent shows good cause for the delay in
 29 making the request.]

30 **[Sec. 13-1163. - Consideration of request.]**

31 [(a) First default. For a first default, the Chairperson may:

1 (1) grant the waiver for good cause shown; or

2 (2) refer the request to the Board.

3 (b) Second or subsequent default. For a second or subsequent default on the same
4 citation, the Chairperson shall refer the request to the Board.]

5 **[Sec. 13-1164. - Action by the Board.]**

6 [The Board may waive or reduce a default penalty after considering:

7 (a) the nature and severity of the underlying violation;

8 (b) the respondent's history of past violations; and

9 (c) any mitigating or aggravating circumstances.]

10 SECTION 5. BE IT FURTHER ENACTED that the provisions of this Act are hereby
11 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
12 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
13 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining
14 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this
15 Act, since the same would have been enacted without the incorporation in this Act of any such
16 invalid or unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection,
17 or section.

18 SECTION 6. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
19 calendar days after it becomes law.

Adopted this 21st day of July, 2020.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Todd M. Turner
Council Chair

ATTEST:

Donna J. Brown
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Angela D. Alsobrooks
County Executive

KEY:
Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions that remain unchanged.

* * * * *